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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re) Bankruptcy Case
) No.
)
) Chapter
Debtor.)
)
) Adversary Proceeding
) No.
)
) RS No. _____
)
)

SCHEDULING ORDER FOR:

- ☐ TRIAL IN ADVERSARY PROCEEDING
☐ FINAL HEARING ON MOTION FOR RELIEF FROM STAY
☐ TRIAL ON OBJECTIONS TO CLAIM
☐ HEARING ON OBJECTIONS TO CONFIRMATION OF CHAPTER ____ PLAN
☐ OTHER: _____

- ☐ A Status Conference in this adversary proceeding
☐ A preliminary hearing on this motion for relief from stay
☐ A hearing regarding objections to claim
☐ A prehearing conference regarding objections to confirmation of plan
☐ Other: _____

was held on _____.

Appearances were as follows:

- ☐ For plaintiff _____ ("Plaintiff"),

☐ For defendant _____ ("Defendant"),

1 _____;
2 [] For Debtor(s): _____;
3 [] For Moving Party: _____
4 _____;
5 [] For Trustee: _____;
6 [] For Creditor: _____ ("Creditor"),
7 _____;
8 [] For United States Trustee: _____;
9 [] Other(s): _____
10 _____.

11 Upon due consideration, the court hereby enters the following
12 scheduling order.

13 1. The trial or hearing ("Trial") on the above matter(s)
14 will commence on the Date and Time of Trial, set forth in
15 Paragraph 13, at the United States Bankruptcy Court, 235 Pine
16 Street, Twenty-Second Floor, San Francisco, CA 94104. The Time
17 reserved for Trial is also shown in Paragraph 13. During the week
18 prior to the Trial, the court may move the starting time or day.
19 The court's Calendar Clerk/Courtroom Deputy will advise the
20 parties of any such change by telephone. **All parties are**
21 **cautioned to be prepared to adjust their schedules accordingly.**

22 2. Unless otherwise ordered, (a) motions to join other
23 parties and to amend the pleadings must be filed not later than 30
24 days after entry of this scheduling order and (b) motions for
25 summary judgment must be heard no later than 30 days before the
26 date set for Trial.

1 3. Discovery shall be completed by the date shown in
2 Paragraph 12. Completion means that depositions must be
3 concluded, although not necessarily transcribed. As to written
4 and production discovery, responses must be due before the dates
5 shown below. The court will attempt to resolve all discovery
6 disputes on an expedited basis via telephonic conference, which
7 any party may initiate by request to the court's Calendar
8 Clerk/Courtroom Deputy and notice to the other party. No written
9 submissions are to be presented unless specifically requested by
10 the court.

11 The deadline for discovery may be extended by the parties by
12 agreement, without an order of the court.

13 4. On motions for relief from stay, evidence at the Trial
14 must be in written form, unless the court by order allows oral
15 testimony. B.L.R. 4001-1(e). Any motion for permission to
16 introduce any oral testimony shall be filed and served seven (7)
17 days before the date set for Trial and shall include the names of
18 the witnesses, the subject of their expected testimony, and a
19 statement of the reasons why the testimony cannot properly be
20 introduced by declaration.

21 Except on motions for relief from stay, declarations of
22 witnesses will not be considered except by stipulation of the
23 parties.

24 5. Not later than ten (10) calendar days before the date
25 set for Trial, each party shall:

26 (a) File and serve a trial brief, which shall include a

1 summary of the facts to be proven and the legal theories on which
2 the party relies. The court will not normally request or permit
3 post-trial briefs. Briefs shall not exceed fifteen (15) pages
4 without prior permission of the court.

5 (b) Except for motions for relief from stay, file and
6 serve a witness list, including a brief summary of the anticipated
7 testimony from each witness. If a party to the matter will be
8 called as a witness (even as an adverse witness) that party's name
9 must be included on the witness list. The presence of a witness'
10 name on the witness list is to alert the court and the other side
11 that the witness may be called. It does not mean that that person
12 will be called. Accordingly, each party is responsible for
13 ensuring the attendance of every witness the party intends to
14 call, whether or not named by the other side. Except in
15 exceptional circumstances, and absent consent by the other side, a
16 party will not be allowed to call a witness not named on that
17 party's witness list.

18 (c) On motions for relief from stay, file and serve
19 (i) a notice identifying any declarations or memoranda previously
20 filed in connection with the preliminary hearing and (ii) any
21 additional declarations the party wishes the court to consider.

22 (d) File and serve a list of exhibits (other than those
23 to be used for impeachment or rebuttal) and exchange, but not
24 file, copies of all exhibits the party intends to introduce into
25 evidence. Any paper(s) in the court's file of which a party
26 intends the court to take judicial notice must be copied and

1 included as an exhibit(s). Copies of the declarations filed and
2 served in accordance subparagraphs 5(c) and/or 10(a) shall be
3 marked as exhibits in the manner described herein. Exhibits are
4 to be premarked for identification.

5 In adversary proceedings, Plaintiff's exhibits should be
6 marked by number and defendant's exhibits should be marked by
7 letter. On motions for relief from stay and other contested
8 matters initiated by motion, Moving Party's exhibits should be
9 marked by number and Respondent's, Debtor's or Trustee's exhibits
10 should be marked by letter. On objections to claim(s) and
11 objections to confirmation of plans, Creditor's exhibits should be
12 marked by number and Debtor's or Trustee's exhibits should be
13 marked by letter.

14 Each page of any exhibit that has more than one page is
15 to be numbered consecutively. The parties shall bring to Trial
16 copies of all exhibits for opposing counsel, the witnesses and the
17 court, together with an exhibit list. If a party has more than
18 ten (10) exhibits, the exhibits should be placed in a three-ring
19 binder with a tab for each exhibit and the exhibit list placed at
20 the front of the binder.

21 6. Promptly after receipt of the items mentioned in
22 Paragraph 5, each party must advise the opposing party of any
23 objections to the introduction of testimony or exhibits. Parties
24 must meet and confer before Trial to attempt to reach agreement
25 regarding admissibility. The court expects the parties to make
26 good faith efforts to resolve all evidentiary issues.

1 7. If efforts to resolve questions regarding the
2 introduction of testimony or exhibits are unsuccessful, motions in
3 limine should be filed and served no later than four (4) **court**
4 days before the date set for Trial. Such motions should include a
5 certification that the moving party has complied with paragraph 6.
6 Opposition thereto should be filed and served no later than one
7 (1) **court** day before the date set for Trial. Copies of motions
8 and oppositions should be delivered or faxed directly to Chambers.
9 Motions in limine will be heard at the commencement of Trial.

10 8. At the commencement of Trial, the parties shall be
11 prepared to stipulate into evidence all exhibits that are
12 admissible for at least one purpose. Bona-fide objections may be
13 reserved, with the issue of admissibility deferred until the
14 exhibit is offered into evidence.

15 9. The requirement of advance identification of witnesses
16 and production of exhibits does not apply to witnesses and
17 exhibits presented for purposes of impeachment or rebuttal.

18 10. The presentation of expert testimony at Trial shall be
19 governed by the following:

20 (a) Direct evidence shall be presented by declarations.
21 Notwithstanding subparagraphs 5(b) and (d), each party shall file
22 and serve experts' declarations and other documentary evidence
23 related thereto no later than **thirty** days prior to the date by
24 which discovery is to be completed; provided, however, on motions
25 for relief from stay, such declarations shall be filed and served
26 as provided in subparagraph 5(c).

1 (b) To cross-examine any of the opposing party's
2 declarant(s), a party shall so notify the opposing party by
3 telephone at least **three (3) court** days before the date set for
4 Trial, in which case the declarant will be required to attend the
5 Trial. Any party who fails to so notify the opposing party will
6 not be permitted to cross-examine the opposing party's
7 declarant(s). Any party who requests the right to cross-examine
8 and then does not do so will be expected to reimburse the opposing
9 party no less than the expenses incurred in producing the
10 declarant at the Trial.

11 On motions for relief from stay, no motion pursuant to
12 paragraph 4 is necessary for the cross-examination or redirect
13 examination of expert declarants.

14 11. No later than the Monday of the week prior to the date
15 set for Trial, counsel for: Plaintiff (in an adversary
16 proceeding); Moving Party (on a motion for relief from stay); and
17 the Debtor or Trustee (on objections to claim or objection to plan
18 confirmation) **must** telephone the court's Calendar Clerk/Courtroom
19 Deputy, Ms. Virginia Belli (415-268-2323) and report: whether the
20 parties intend to go forward with the Trial as scheduled; if
21 settlement is likely; whether the time reserved for the Trial is
22 realistic; and any other relevant information.

23 12. Any failure of a party to comply timely with this order
24 may result in judgment against such party, removal of the Trial
25 from calendar, exclusion of evidence or imposition of monetary or
26 non-monetary sanctions Fed. R. Bankr. P. 7016.

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13. Date and Time of Trial:
Time reserved for Trial:
Discovery to be completed by:

Dated:

Dennis Montali
United States Bankruptcy Judge